

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KATHLEEN M. SWEENEY,

Plaintiff,

v.

DECISION AND ORDER  
14-CV-402-A

UNITED STATES OF AMERICA,

Defendant.

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This Federal Tort Claims Act case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On February 20, 2018, Magistrate Judge Schroeder filed a Report and Recommendation (Dkt. No. 39), which recommends that Defendant's motion for summary judgment (Dkt. No. 26) be granted in part and denied in part. Specifically, Magistrate Judge Schroeder recommends that Defendant's summary judgment motion be denied as to (1) causation, and (2) Plaintiff's allegations that she sustained a "serious injury," as that term is denied under New York State's No Fault statute, see N.Y. Ins. Law § 5102(d), under a theory of permanent consequential limitation and/or significant limitation. Magistrate Judge Schroeder further recommended that Defendant's motion be granted with respect to the Plaintiff's claim that she suffered a "serious injury" under the "90/180" category. See N.Y. Ins. Law § 5102(d).

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, Defendant's motion for summary judgment is granted in part and denied in part.

The parties shall appear on April 12, 2018 at 9:00 a.m. for a meeting to set a trial date.

IT IS SO ORDERED.

*Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: March 22, 2018